



September 9, 2022

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The Hon. Lewis A. Kaplan
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: Anthony Rapp and C.D. v. Kevin Spacey Fowler a/k/a Kevin Spacey
Southern District of New York, Case No. 1:20-cv-09586 (LAK)

Dear Judge Kaplan:

As Your Honor knows, my firm represents Defendant Kevin Spacey Fowler. I write to inform Your Honor that Mr. Fowler will be filing a motion *in limine* that bears on the Court's consideration of Plaintiff's objections to transcript designations submitted on September 8, 2022. In particular, Plaintiff asserted various objections to designations under Federal Rules of Evidence 403 and 412 because the testimony allegedly pertained to Plaintiff's prior sexual conduct. As Mr. Fowler's motion will explain, the evidence which we intend to present at trial is necessary to assess Plaintiff's claim for damages, Plaintiff's credibility, and the anticipated testimony of Plaintiff's designated expert, who considered and opined on such matter.

Because Plaintiff has publicly discussed the evidence with the media, in his book, and with friends and family (and because Plaintiff opposed any stipulated protective order under which the parties could designate such discovery and deposition testimony as confidential), Mr. Fowler does not believe it is necessary to file the anticipated motion under seal. But, out of an abundance of caution, and mindful of the procedure set forth in Federal Rule of Evidence 412(c), I write to seek leave to file under seal Mr. Fowler's motion to admit certain evidence to which Plaintiff objects under Federal Rules of Evidence 403 and 412. Upon the filing of the motion, the Court can determinate whether the motion should remain under seal, as well as any other orders the Court deems appropriate on the evidence. Per the Court's individual practice rules, I met and conferred with Plaintiff's counsel on this issue. Plaintiff's counsel informed me that Plaintiff asserts Mr. Fowler's motion should be filed under seal.

Respectfully submitted,

KELLER/ANDERLE LLP

A handwritten signature in blue ink, appearing to read 'Chase A. Scolnick'.

Chase A. Scolnick